

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

IGOR PURLANTOV,

Defendant.

Case No: CR 11-00371 SBA

**ORDER DENYING MOTION TO
REVISE THE RESTITUTION
ORDER**

Docket 33.

Before the Court is a motion to revise the restitution order pursuant to 18 U.S.C. § 3664(d)(5) filed by Sami Yusuf Alami, Bashir Alami, Zuhayr Alami, Ina' Am Yusuf Alami, and Sufian Yusuf Alami (collectively, "the Alami Victims"). Dkt. 33. The government filed a response to the motion, stating that it agrees with the relief requested by the Alami Victims. Dkt. 38. Defendant Igor Purlantov ("Defendant") filed a response to the motion, stating that he does not take a position as to whether the Alami Victims' request is appropriate. Dkt. 39. Having read and considered the papers filed in connection with this matter and being fully informed, the Court hereby DENIES the motion, for the reasons stated below. The Court, in its discretion, finds this matter suitable for resolution without oral argument.

I. BACKGROUND

On December 14, 2011, Defendant pled guilty to one count of wire fraud in violation of 18 U.S.C. § 1343, and one count of income tax evasion in violation of 26 U.S.C. § 7201. Dkt. 20. He was sentenced on the same day to 24 months in custody and 3 years of

1 supervised release, and was ordered to pay a \$200 special assessment and \$1,468,714.25 in
2 restitution to the victims of the offenses. Id.

3 On December 15, 2011, the Court filed the judgment order, setting forth the
4 penalties described above. Dkt. 22. As relevant to the instant motion, Defendant was
5 ordered to pay \$587,833.98 in restitution to be divided equally among the following
6 individuals: (1) Sami Yusuf Alami - \$97,972.33; (2) Bashir Alami - \$97,972.33; (3) Zuhayr
7 Alami - \$97,972.33; (4) Ina' Am Yusuf Alami - \$97,972.33; (5) Adnan Yusuf Alami -
8 \$97,972.33; and (6) Sufian Yusuf Alami - \$97,972.33. Id.

9 The judgment order was subsequently amended several times, the last amendment
10 occurring on January 17, 2012. See Dkt. 25, 26, 28, 31. On March 3, 2012, the Alami
11 Victims filed a motion to revise the restitution order. Dkt. 33.

12 On April 6, 2012, the Court issued an order directing the government and Defendant
13 to file a response to the Alami Victims' motion. Dkt. 37. The government filed a response
14 to the motion on April 6, 2012. Dkt. 38. Defendant filed a response to the motion on April
15 13, 2012. Dkt. 39.

16 **II. DISCUSSION**

17 **A. Legal Standard**

18 A district court's jurisdiction to alter a criminal sentence is limited to the narrow
19 circumstances prescribed by Federal Rule of Criminal Procedure 35 or by statute. See
20 United States v. Barragan-Mendoza, 174 F.3d 1024, 1028 (9th Cir. 1999). Authority to
21 impose and to alter a restitution order is governed by 18 U.S.C. § 3664.

22 Section 3664(o) provides that once a restitution order is imposed, it may be amended
23 under § 3664(d)(5). 18 U.S.C. § 3664(o)(1)(C). Section 3664(d)(5) allows a sentencing
24 court to amend a restitution order if a victim discovers "further losses" after the entry of
25 judgment and files a petition with the court requesting an amended restitution order within
26 60 days after discovery of the losses. 18 U.S.C. § 3664(d)(5). Section 3664(d)(5) states in
27 full:
28

1 If the victim's losses are not ascertainable by the date that is 10 days prior to
2 sentencing, the attorney for the Government or the probation officer shall so
3 inform the court, and the court shall set a date for the final determination of
4 the victim's losses, not to exceed 90 days after sentencing. If the victim
5 subsequently discovers further losses, the victim shall have 60 days after
6 discovery of those losses in which to petition the court for an amended
7 restitution order. Such order may be granted only upon a showing of good
8 cause for the failure to include such losses in the initial claim for
9 restitutionary relief.

10 **B. Amendment Under 18 U.S.C. § 3664(d)(5)**

11 The Alami Victims contend that amendment of the restitution order is appropriate
12 under § 3664(d)(5) because they have discovered "further losses" and have petitioned the
13 Court for an amended order within sixty (60) days after the discovery of those losses.
14 Specifically, the Alami Victims claim that amendment of the order is warranted because:
15 (1) they did not discover the "error" in the restitution order until on or about January 17,
16 2012 when they received notice that their deceased brother Adnan Yusuf Alami ("Adnan")
17 was named in the restitution order; and (2) Adnan does not have any heirs except for the
18 Alami Victims, and thus they are entitled to his portion of the restitution. The Alami
19 Victims request that the Court issue an order that removes Adnan from the restitution order
20 and divides his portion of the restitution equally among the Alami Victims.

21 The Court concludes that the Alami Victims have failed to demonstrate that
22 amendment of the restitution order is warranted under § 3664(d)(5). The Alami Victims
23 have not identified any "further losses" within the meaning of the statute to justify
24 amendment of the restitution order. Instead, they have informed the Court that their brother
25 Adnan is deceased and that they are entitled to his portion of the restitution because Adnan
26 does not have any heirs except for them. The Alami Victims, however, have not cited any
27 authority, and this Court could not locate any, holding that such circumstances constitute a
28 "further loss" suffered by the Alami Victims as a result of the wire fraud committed by
Defendant. Accordingly, because the Alami Victims have not identified any statutory
provision or other authority permitting amendment of the restitution order, their motion to
revise the restitution order is DENIED.

1 **III. CONCLUSION**

2 For the reasons stated above, the Alami Victims' motion to revise the restitution
3 order is DENIED. This Order terminates Docket 33.

4 IT IS SO ORDERED.

5 Dated: 5/1/12


SAUNDRA BROWN ARMSTRONG
United States District Judge